



THE NAVAJO NATION

OFFICE OF THE PRESIDENT & VICE PRESIDENT

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Navajo President Joe Shirley, Jr., uses line item veto authority for first time to save \$5.6 million for DOJ's contingency fund

WINDOW ROCK, Ariz. – Navajo Nation President Joe Shirley, Jr., today signed Resolution CJN-25-10 into law while exercising presidential line item veto authority for the first time since the Navajo People approved it more than six months ago.

The new presidential authority saved the Navajo Nation \$5,650,000 in spending. The spending would have tapped the Navajo Nation Department of Justice's Contingency Management Fund.

In his first line item veto message to Navajo Nation Council Speaker Lawrence T. Morgan and the Council, the President said the line item veto of four components of the large spending bill was necessary to preserve the fund at a level essential to protect the Nation's interests.

"There really are no monies," the President said after signing the law. "They've been encumbered. That money from the contingency fund is already obligated. The only resolution I didn't line out is money for the kids in spite of the fact that there is no money."

The Contingency Management Fund is reserved for liabilities and claims owed by the Navajo Nation as determined by the Office of the Attorney General.

The President said the Navajo Nation Department of Justice needs the contingency fund to pay all qualified contingencies, including disallowed costs related to grants, judgments and any other fees entered against the Navajo Nation.

An analysis of the spending legislation by the Navajo Nation Office of Management and Budget found that a

purported "lack of funding" – as stated in the language of the legislation – "does not constitute an emergency and there is no threat to the sovereignty of the Navajo Nation."

In FY 2009, the Council appropriated \$56.3 million to chapters for public employment, summer employment, scholarships, winter emergencies, stipends for officials and communities projects. As of April 30, chapters had a balance of \$38 million in unspent money.

OMB Director Dominic Beyer said that over the past two years the Council has made so many supplemental appropriations from the tribe's Undesignated Unreserved Fund and personnel savings that it has depleted these money sources, resulting in a tribal budget deficit of \$22 million.

"The Attorney General did not give permission to reallocate or appropriate funds from this account, which therefore may not comply with requirements that such permission be obtained," Mr. Beyer said.

In his line item veto message, the President said failure to maintain sufficient levels in the contingency fund would adversely affect the Nation's unqualified audit regarding its financial statements.

Among the items the President lined out of the law are:

- Spending \$3 million for chapter Public Employment Programs.

According to OMB, as of April 30 chapters had a balance of \$38 million in unspent money. This includes \$3.1 for public employment, and \$948,000 for summer youth employment.

The President signed into law \$2 million for youth employment programs to Navajo Nation chapters from the Contingency Management Fund, even though the money is already obligated.

- Spending of \$150,000 by the Nazlini Chapter for a post office.

According to the OMB, this construction funding should be part of should be part of the Navajo Nation Capital Plan and Budget coordinated by the Division of Community Development and the Capital Improvement Office in accordance with the Appropriations Act.

- Spending of \$2 million for the Navajo Nation Chapter Housing Program.

According to the OMB and Division of Community Development, chapters have \$1.7 million in unspent funds for housing discretionary spending.

- Spending of \$500,000 for the Speaker's office discretionary funds.

According to the OMB, the Council gave itself \$8.8 million in discretionary funds in FY 2009, and another \$3 million in FY 2010.

In FY 2009, the Council made supplemental appropriations to chapters in the amount of \$56.3 million for public employment, summer employment, scholarships, winter emergencies, stipends for officials and communities projects, according to OMB. Any unspent money is carried over to the next fiscal year.

In January, the Council appropriated \$1 million from the Personnel Lapse Fund to chapters for emergencies.

"The practice of funding initiatives without budget priorities and planning is not advisable and does not comply with the Appropriations Act," Mr. Beyer said.

Presidential line item veto authority was granted to the Navajo Nation President by an initiative special election on Dec. 15, 2009. President Shirley announced an initiative petition drive on April 29, 2008, that led to the special election.

However, because of the Council's challenge to overturn the results of the election that reduced the Navajo Nation Council from 88 to 24 delegates, the Navajo Board of Election Supervisors chose not to certify the results of the election until ordered to by the Navajo Nation Supreme Court on May 28.

"There is no challenge to the Line Item Veto Initiative; therefore, this Court, noting that all time periods for challenges have expired, presumes that the Line Item Veto Initiative is valid and the law enacted is effective," the Court said.

In other action, the President signed into law legislation:

- To oppose Arizona Senate Bill 1070 and Arizona House Bill 2281, the state's immigration and ethnic studies bills. The ethnic studies law restricts the teaching of ethnic studies in Arizona elementary and secondary schools.

- To allow the Navajo Housing Authority to lobby Congress for an increase in NAHASDA Indian Housing Block Grants funding from the current proposed \$580 million to \$875 million.

- Proclaiming Monday, the first day of the Navajo Nation Council summer session, as Diné Bi Lii Dilzin Day, or Navajo Nation Horse Day.

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